

Forty-eighth Legislature
Second Regular Session

COMMITTEE ON NATURAL RESOURCES AND PUBLIC SAFETY

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1048

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

"Section 1. Section 13-3603.01, Arizona Revised Statutes, is amended to read:

13-3603.01. Partial-birth abortions; classification; civil action; definitions

A. ~~A person~~ ANY PHYSICIAN who knowingly performs a partial-birth abortion and ~~who~~ THEREBY kills a human fetus is guilty of a class 6 felony AND SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN TWO YEARS, OR BOTH.

B. This section does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, PHYSICAL illness or PHYSICAL injury ~~if no other medical procedure would save the mother's life, INCLUDING A LIFE-ENDANGERING PHYSICAL CONDITION CAUSED BY OR ARISING FROM THE PREGNANCY ITSELF.~~

C. The father of the fetus if married to the mother at the time she receives a partial-birth abortion **PROCEDURE** and the maternal grandparents of the fetus if the mother is not at least eighteen years of age at the time of the partial-birth abortion may bring a civil action to obtain appropriate relief unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the partial-birth abortion. Relief pursuant to this subsection includes the following:

1. Monetary MONEY damages for all injuries, PSYCHOLOGICAL AND PHYSICAL, resulting from the ~~partial birth abortion, including psychological and physical damages~~ VIOLATION OF THIS SECTION

2. STATUTORY damages in an amount equal to three times the cost of the partial-birth abortion.

1 D. This section ~~does~~ SHALL not subject a woman upon whom a
2 partial-birth abortion is performed to ANY criminal prosecution or civil
3 liability ~~under this section~~.

4 E. A DEFENDANT WHO IS ACCUSED OF AN OFFENSE UNDER THIS SECTION MAY
5 SEEK A HEARING BEFORE THE ARIZONA MEDICAL BOARD ON WHETHER THE PHYSICIAN'S
6 CONDUCT WAS NECESSARY TO SAVE THE LIFE OF THE MOTHER WHOSE LIFE WAS
7 ENDANGERED BY A PHYSICAL DISORDER, PHYSICAL ILLNESS OR PHYSICAL INJURY,
8 INCLUDING A LIFE-ENDANGERING PHYSICAL CONDITION CAUSED BY OR ARISING FROM THE
9 PREGNANCY ITSELF. THE FINDINGS ON THAT ISSUE ARE ADMISSIBLE ON THAT ISSUE AT
10 THE TRIAL OF THE DEFENDANT. ON A MOTION OF THE DEFENDANT, THE COURT SHALL
11 DELAY THE BEGINNING OF THE TRIAL FOR NOT MORE THAN THIRTY DAYS TO PERMIT A
12 HEARING TO TAKE PLACE.

13 ~~E.~~ F. For the purposes of this section:

14 1. "Partial-birth abortion" means an abortion in which the person
15 performing the abortion ~~partially vaginally delivers a living fetus before~~
16 ~~killing the fetus and completing the delivery~~ DOES BOTH OF THE FOLLOWING:

17 (a) DELIBERATELY AND INTENTIONALLY VAGINALLY DELIVERS A LIVING FETUS
18 UNTIL, IN THE CASE OF A HEADFIRST PRESENTATION, THE ENTIRE FETAL HEAD IS
19 OUTSIDE THE BODY OF THE MOTHER OR, IN THE CASE OF BREECH PRESENTATION, ANY
20 PART OF THE FETAL TRUNK PAST THE NAVAL IS OUTSIDE THE BODY OF THE MOTHER FOR
21 THE PURPOSE OF PERFORMING AN OVERT ACT THAT THE PERSON KNOWS WILL KILL THE
22 PARTIALLY DELIVERED LIVING FETUS.

23 (b) PERFORMS THE OVERT ACT, OTHER THAN COMPLETION OF DELIVERY, THAT
24 KILLS THE PARTIALLY DELIVERED LIVING FETUS.

25 2. ~~"Person"~~ includes a physician "PHYSICIAN" MEANS A DOCTOR OF
26 MEDICINE OR A DOCTOR OF OSTEOPATHY who is licensed pursuant to title 32,
27 chapter 13 or 17, ~~a person~~ OR ANY OTHER INDIVIDUAL ~~who is~~ legally authorized
28 by this state to perform abortions. ~~or a person~~ ANY INDIVIDUAL who is not A
29 PHYSICIAN OR WHO IS NOT OTHERWISE legally authorized by this state to perform
30 abortions but who NEVERTHELESS directly performs a partial-birth abortion
31 SHALL BE SUBJECT TO THIS SECTION.

32 Sec. 2. Severability

1 If a provision of this act or its application to any person or
2 circumstance is held invalid, the invalidity does not affect other provisions
3 or applications of the act that can be given effect without the invalid
4 provision or application, and to this end the provisions of the act are
5 severable.

6 Sec. 3. Emergency

7 This act is an emergency measure that is necessary to preserve the
8 public peace, health or safety and is operative immediately as provided by
9 law."

10 Amend title to conform

and, as so amended, it do pass

JERRY P. WEIERS
Chairman

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H:jjb

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